



Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995

Mallinder, L. (2012). Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995. In L. Stan, & N. Nedelsky (Eds.), *Encyclopedia of Transitional Justice* (Vol. 3, pp. 38-43). Cambridge University Press.

[Link to publication record in Ulster University Research Portal](#)

Published in:
Encyclopedia of Transitional Justice

Publication Status:
Published (in print/issue): 01/12/2012

Document Version
Publisher's PDF, also known as Version of record

General rights
Copyright for the publications made accessible via Ulster University's Research Portal is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

Take down policy
The Research Portal is Ulster University's institutional repository that provides access to Ulster's research outputs. Every effort has been made to ensure that content in the Research Portal does not infringe any person's rights, or applicable UK laws. If you discover content in the Research Portal that you believe breaches copyright or violates any law, please contact pure-support@ulster.ac.uk.

of the principal leaders, instigators, and planners of the war. They left the controversial “crimes against peace” to the IMTFFE and focused on war crimes violating the Geneva Conventions. The concerns and claims of surviving victims were addressed only recently. In spite of the formal apologies delivered by Japanese leaders, the chasm between the views on Japan’s war and atrocities of the Japanese public and scholars, on the one hand, and those of the Western and other Asian countries, on the other hand, remains wide.

Yves Beigbeder

Cross-references: Comfort Women; International Military Tribunal for the Far East; Japan.

Further Readings

- Aiko, Utsumi. 1997. Changing Japanese Views of the Allied Occupation of Japan and the War Crimes Trials. *Journal of the Australian War Memorial*, 30. Available at: <http://www.awm.gov.au/journal/j30/utsumi.asp> (accessed November 11, 2010).
- Boister, Neil and Robert Cryer. 2008. *The Tokyo International Military Tribunal, A Reappraisal*. Oxford: Oxford University Press.
- Brackman, Arnold. 1987. *The Other Nuremberg: The Untold Story of the Tokyo War Crimes Trial*. New York: William Morrow.
- Chaen, Yoshio. 1984–1993. *BC-Kyû Senpan Saiban Kankei Shiryô Shûsei* [Collected materials on BC-Class war crimes proceedings], 10 volumes. Tokyo: Fuji Shuppan.
- Futamura, Madoka. 2008. *War Crime Tribunals and Transitional Justice: The Tokyo Trial and the Nuremberg Legacy*. London: Routledge.
- Japan Judicial Affairs Board. 1952. *Jissô no Saiban Senpan* [The Facts of the War Crimes Trials]. Tokyo: Sugamo Homuiin-kai.
- Miner, Richard. 1971. *Victors’ Justice. The Tokyo War Crimes Trial*. Princeton: Princeton University Press.
- Piccigallo, Philip. 1979. *The Japanese on Trial. Allied War Crimes Operations in the East, 1945–1951*. Austin: University of Texas Press.
- Röling, B. 1993. *The Tokyo Trial and Beyond*. Cambridge: Polity Press.
- Totani, Huma, 2009. *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II*. Cambridge, MA: Harvard University Press.

Commission for Investigation of the Events in and Around Srebrenica between 10 and 19 July 1995 / Komisija za istraživanje događaja u oko Srebrenice između 10. i 19. srpnja 1995 (Bosnia-Herzegovina)

In July 1995, during the final stages of the war in Bosnia-Herzegovina, the UN-protected “safe area” of Srebrenica that had been besieged since 1992 was captured by Bosnian Serb forces under the command of General Ratko Mladić. Over six days, the city was attacked and its inhabitants slaughtered. An estimated 20,000 city residents tried to flee through the mountain forests to the Bosnian government-controlled city of Tuzla, but thousands were killed on what has become known as the “road of death.” The remaining inhabitants of Srebrenica sought refuge at the United Nations Protection Force (UNPROFOR) base at Potočari. Mladić’s troops arrived there on July 12, and while the Dutch troops looked on, Bosnian Serb fighters separated the men from the women and children. The men were taken to other locations to be summarily executed and buried in mass graves, while the women and children were driven to the front line to be released to the Bosnian

government. Because of the international presence in Srebrenica, the atrocity rapidly came to global attention. The Bosnian Serbs immediately sought to deny the slaughter of thousands of civilians. Eventually, however, the Bosnian Serb authorities were ordered to investigate what had happened. The Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995 was created by the government of the Republika Srpska entity in Bosnia-Herzegovina in December 2003 and functioned until October 2004. It was mandated to investigate the crimes at Srebrenica in order to “establish the full truth.”

Political Background

In the years following the atrocities, and despite the evidence being uncovered at the International Criminal Tribunal for the Former Yugoslavia (ICTY), the Republika Srpska authorities strongly denied that Bosnian Serb forces had murdered thousands of civilians in Srebrenica. They maintained this denial despite the events in The Hague, where Dražen Erdemović, an ethnic Bosniac Croat who participated in the slaughter as a soldier in the Republika Srpska Army, confessed that he had been involved in the mass murder, and General Radislav Krstić, Deputy Commander of the Drina Corps of the same Army, was convicted of genocide in August 2001.

The Bosnian Serb authorities articulated their position most vociferously in a report by the Bureau of the Government of Republika Srpska for Relations with the ICTY published in September 2002. In a chapter entitled “The Alleged Massacre,” the report seeks to challenge official estimates of the number of deaths in Srebrenica. It uses various methods including arguing that most of the men who had fled Srebrenica were armed and died in combat. It further argues that in the chaos of war, many of the names of the disappeared may have appeared on several of the different lists compiled by international agencies or civil society groups and hence records of disappearances may have been duplicated when these were combined. The report further argued that some individuals believed to have disappeared may have fled into exile. The report concludes that fewer than 100 Muslims had been killed “by Bosnian Serb forces for personal revenge or in simple ignorance of international law” (Bureau of the Government of Republika Srpska for Relations with the ICTY 2002, 34). The report further tried to discredit Erdemović’s testimony by stating that he was “mentally sick.” Other contemporary Serbian accounts, including defense testimony at The Hague, alleged that the Muslims had either been killed in combat, fought among themselves, committed mass suicide, or been murdered by French, Bosnian, and other mercenaries in order to discredit the Serbs (Vuillarmy 2005, p. 3).

In March 2003, the Human Rights Chamber in Sarajevo, which had been created under the Dayton Peace Agreement, considered forty-nine applications submitted by relatives of persons who disappeared during the massacres in Srebrenica (a further 1,800 applications were pending at the time of the decision). In its judgment in the *Ferida Selimović et al v. the Republika Srpska* case, the Chamber considered the obligations of the Republika Srpska under the European Convention on Human Rights and other international treaties to provide victims’ families with remedies, including information about the fate of their relatives. Unsurprisingly, the Chamber found that the 2002 Republika Srpska report on Srebrenica had failed to achieve this, and it argued instead that the report “presents an exclusively one-sided view of the Srebrenica events, and it in no way

clarifies the fate and whereabouts of the thousands of missing Bosniaks from Srebrenica” (*Ferida Selimović et al v. the Republika Srpska*, para. 179). The Human Rights Chamber concluded that Republika Srpska’s failure to disclose information requested by the relatives violated the entity government’s obligations “to secure respect for their rights to private and family life, as guaranteed by Article 8 of the European Convention” (*Ferida Selimović et al v. the Republika Srpska*, para. 202). The Chamber further found that the authorities’ failure to “inform the applicants about the truth of the fate and whereabouts of their missing loved ones, including conducting a meaningful and effective investigation into the massacre at Srebrenica in July 1995, violates their rights to be free from inhuman and degrading treatment, as guaranteed by Article 3 of the European Convention” (*Ferida Selimović et al v. the Republika Srpska*, para. 202). Finally, the Chamber held that the Republika Srpska authorities had discriminated against the victims’ families because of their “Bosniak origin.” The chamber then ordered the Republika Srpska authorities to release all available information to the victims’ families and the relevant international organizations. In addition, the Chamber ordered the Bosnian Serb government to conduct, within six months of the decision, a full, meaningful, thorough, and detailed investigation into the events giving rise to the established human rights violations, with a view to making known to the applicants, all other family members, and the public the Republika Srpska’s role in the facts surrounding the massacre at Srebrenica in July 1995, its subsequent efforts to cover up those facts, and the fate and whereabouts of the persons missing from Srebrenica. The court maintained that the investigation should also be conducted with a view to bringing the perpetrators of any crimes committed in connection with the missing persons from Srebrenica to justice before the competent domestic criminal courts or to extraditing persons wanted by the ICTY for prosecution for war crimes, genocide, or crimes against humanity in connection with the Srebrenica events. This investigation should include, among other necessary measures, an internal investigation of present and former members of the Republika Srpska Army who may have relevant personal knowledge of the Srebrenica events or the location of any personal effects or burial sites of persons killed in connection with the Srebrenica events. The chamber also ordered the Republika Srpska government to contribute financially to the Foundation of the Srebrenica-Potočari Memorial and Cemetery.

On October 15, 2003, the ruling of the Human Rights Chamber was endorsed by the then High Representative Paddy Ashdown. The Office of the High Representative (OHR) was created by the Dayton Peace Accords and was tasked with overseeing the implementation of their civilian aspects. Within this role, Ashdown ordered the Republika Srpska entity to create an investigative commission.

Mission, Organization, and Activity

On December 15, 2003, the government of Republika Srpska responded to the pressure and created the Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995. The main task of the commission was “the investigation and other activities in order to establish the full truth of the events in and around Srebrenica between 10th and 19th July 1995, aiming to establish lasting peace and build confidence in Bosnia and Herzegovina” (*The Events in and around Srebrenica between 10 and 19 July 1995* 2004, 3). The Commission interpreted its mandate to require it “to investigate the stated crimes; the scale of the crimes; who ordered them; and who

committed them” (*The Events in and around Srebrenica between 10 and 19 July 1995* 2004, 4). It also sought to gather information on “the invasion of Srebrenica; the attempt to evacuate the population; the humanitarian crisis; the situation in Potočari; the situation in the mixed column [of combatants and refugees through the mountain forests towards Tuzla]; the fate and the location of the missing persons; information on new locations of individual and mass graves; [and] identification of the victims” (*The Events in and around Srebrenica between 10 and 19 July 1995* 2004, 4–5). In particular, the commission sought to create an accurate list of the victims. The decision creating the commission instructed “the Republika Srpska Ministries of Justice, Internal Affairs and Defense, the security services, the Republika Srpska Army Command, and the entity Secretariat for relations with the International Criminal Tribunal at The Hague” to cooperate fully with the commission (*The Events in and around Srebrenica between 10 and 19 July 1995* 2004, 3). The commission was given six months to complete its work and submit the final report.

On December 25, 2003, the Republika Srpska government nominated Marko Arsović as the commission’s chair and appointed six other commissioners: Milan Bogdanić, Milorad Ivošević, Đorđe Stojaković, Gojko Vukotić, Smail Čekić, and Gordon Bacon. The OHR had nominated Smail Čekić to represent victims’ families and Gordon Bacon to represent the international community. The OHR and the ICTY were given observer status. The commission held its first meeting on January 12, 2004, in which it adopted a work plan and appointed Đorđe Stojaković and Smail Čekić as vice-chairpersons.

After agreeing on a methodology, the commission began its investigations in February 2004 and focused on gathering information from Republika Srpska authorities and individuals who had been involved. The commission also contacted relevant international institutions and agencies and victims’ associations. However, it initially faced obstruction from the Republika Srpska authorities, and the commission’s interim report, produced on April 14, 2004, was condemned as merely repeating “the worst of the denials” (Vulliamy 2005). This continued obstruction enraged High Representative Ashdown, and he proclaimed that the report was “a scandalous indictment of the Republika Srpska institutions which were legally and morally bound to cooperate fully with the Commission, and yet according to this report have failed to” (Freeman 2004, 9). He then responded to the obstruction by using his wide-ranging “Bonn powers,” which allowed him to make binding decisions against persons who he found to be violating the peace agreement, to order the removal from office of Republika Srpska Army Chief of Staff Cvjetko Savić, and Head of the Republika Srpska Government Secretariat for Cooperation with the ICTY Dejan Miletić. Ashdown also ordered the president of the Republika Srpska to remove the chair of the commission, Marko Arsović, and replace him as chair with another commission member, Milan Bogdanić. The Republika Srpska government complied and it appointed Željko Vujadinović to the vacancy in the commission. Furthermore, in response to the OHR requests and the short time frame for investigations, the commission then focused its work on locating mass graves and producing a list of those who were killed.

Following these changes, in June 2004, the commission produced a Final Report that acknowledged that “between 10 and 19 July 1995, several thousands of Bosniaks were liquidated, in a manner that represents severe violation of International Humanitarian Law and that the perpetrators, among the others, undertook measures to cover up the crime by reallocating the bodies” (*The Events in and around Srebrenica between 10 and 19 July 1995* 2004, 41). This was the first official acknowledgment by the Bosnian Serbs of

their culpability for the crimes in Srebrenica. The report was greeted by the Bosnian Serb president Dragan Čavić in a television statement in which he said that the “nine July days of the Srebrenica tragedy are a black page in the history of the Serb people” (Milanovic 2006, 255). In October 2004, the commission released an addendum to the report in which it analyzed various lists gathered by international organizations and victims’ groups of persons believed to have disappeared at Srebrenica. The report concluded that 7,779 persons were killed, but it stressed that investigations needed to continue. The commission’s investigations also revealed previously unknown information about Srebrenica by identifying thirty-two mass graves, reconstructing the involvement of the wartime military and police units of Republika Srpska (which underwent vetting between 1999 and 2002), and drafting lists of potential perpetrators.

Following these reports, on October 28, 2004, the government of Republika Srpska issued an official apology in which it stated that it “commiserates with the pain of relatives of perished people of Srebrenica, and truly regrets and apologizes for the tragedy they experienced” (Milanovic 2006, 255). It also stated that it was committed to ensuring that those responsible were brought to justice. In December 2004, the OHR ordered the Republika Srpska government to establish a working group to analyze the commission’s documentation and “identify all officials, particularly those still in RS [Republika Srpska] bodies, whose names appeared in the confidential annexes” (Office of High Representative 2004). This Working Group, which began operating at the end of January 2005, submitted its first report in March 2005. The annexes, which are believed to contain the names of hundreds of suspects, have remained confidential.

Conclusion

The Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995 conducted its investigations within a tight time frame and in the face of considerable political obstruction from the Republika Srpska authorities. Nonetheless, it succeeded in bringing new information to light by locating previously unknown mass graves. Furthermore, by identifying thousands of the victims at Srebrenica, the commission undermined the culture of denial that had been prevalent in Bosnian Serb discourse. The Republika Srpska government’s acknowledgment of the report and the president’s apology represented the first official public truth revealed in the former Yugoslavia. In the aftermath of these reports, only very few Bosnian Serb politicians deny the events at Srebrenica, and the Republika Srpska has gradually become more cooperative with justice initiatives, as the Bosnian Serb authorities transferred their first indictee to The Hague on January 16, 2005.

Louise Mallinder

Cross-references: Bosnia-Herzegovina; International Criminal Tribunal for the Former Yugoslavia; Truth Commissions; War Crimes Chamber of the Court of Bosnia-Herzegovina.

Further Readings

Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995. 2004. *Addendum to the Report of 11 June 2004 on the Events in and around Srebrenica between 10 and 19 July 1995*. Banja Luka: Republika Srpska Government, October 15.

- Commission for Investigation of the Events in and around Srebrenica between 10 and 19 July 1995. 2004. *The Events in and around Srebrenica between 10 and 19 July 1995*. Banja Luka: Republika Srpska Government.
- Ferida Selimović et al v. the Republika Srpska*. Decision on the Admissibility and the Merits, March 7, 2003.
- Freeman, Mark. 2004. *Bosnia and Herzegovina: Selected Developments in Transitional Justice*. New York: International Center for Transitional Justice, October. Available at: <http://www.ictj.org/images/content/1/1/113.pdf> (accessed October 26, 2009).
- Kandić, Natasa. 2005. The ICTY Trials and Transitional Justice in Former Yugoslavia. *Cornell International Law Journal*, 38: 789–792.
- Milanovic, Marko. 2006. Narratives of Justice for the Balkans: Establishing Responsibility for Genocide in the Bosnian War. *Serbian Yearbook of International Law*, 2: 237–267.
- Office of High Representative. 2004. *Statement by the High Representative, Paddy Ashdown at Today's Press Conference*. December 16, Sarajevo. Available at: <http://www.ohr.int/ohr-dept/press/presb/default.asp?contentLid=33741> (accessed October 26, 2009).
- Vulliamy, Ed. 2005. Srebrenica: Ten Years On, *Open Democracy*, July 5. Available at: http://www.opendemocracy.net/conflict-yugoslavia/srebrenica_2651.jsp (accessed October 26, 2009).

Commission for Reception, Truth and Reconciliation / Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste (East Timor)

The Commission for Reception, Truth and Reconciliation (known by its Portuguese acronym, CAVR) was established in July 2001 to deal with the human rights violations and suffering experienced by the East Timorese during the period between the departure of the Portuguese colonial power in April 1974 and the United Nations' arrival to stop the post-independence referendum violence in October 1999. Most of the killings and other violations investigated by the Commission were perpetrated by the Indonesian military during their invasion and occupation of East Timor, and by the pro-integration, Indonesian-led Timorese militia in 1999. The Commission also covered the violations perpetrated by Timorese political factions during the civil war of 1974–1975 and the brief period of independence before Indonesia invaded in December 1975. Human rights violations identified and documented by the Commission included unlawful killings and enforced disappearances; forced displacement and famine; detention, torture, and ill-treatment; violations of the laws of war; sexual violence; violations of the rights of the child; and violations of economic and social rights. In addition to producing a historical record of the human rights abuses (truth), the Commission was also responsible for facilitating the reception and reintegration of East Timorese refugees and those who committed lesser crimes (reconciliation). The Commission was wound up after completion of its final report, *Chega!* (“Enough!” in Portuguese), in October 2005. The Post-CAVR Technical Secretariat was established in December 2005.

Political Background

On August 30, 1999, 78.5 percent of the East Timorese population voted against autonomy within Indonesia, thereby embracing independence, which was subsequently declared on May 20, 2002. The international community has supported peace-building in East Timor, including attention to both justice and reconciliation strategies to promote healing and rebuilding of relationships within communities divided by violence, as well